

Appl. No. : 10/776,060
Filed : February 11, 2004

REMARKS

The foregoing amendments and the following remarks are responsive to the February 8, 2006 Office Action. Claims 51-55, 63-70, 75-81, 89, 90, and 124-127 are now pending in the present application, Claims 51, 76, 77, 79, 81, and 90 having been amended and Claim 124-127 having been newly added.

In response to the Office Action mailed February 8, 2006, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Claim Objections

Claim 79 stands objected to by the Examiner for containing an informality. In response, Applicant has amended Claim 79 to be more easily readable. Applicant submits that this is not a narrowing amendment. Thus, all of the equivalents of the original recitations of Claim 79 are also equivalents of the present recitations of Claim 79. Applicant respectfully requests the Examiner withdraw the objection to Claim 79.

Kress Does Not Disclose the Medical Basin Recited By Claims 51-55 and 81

Claims 51-55 and 81 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kress (U.S. Patent No. 2,709,435) ("Kress"). Applicant respectfully traverses the present rejections. However, to expedite the prosecution of the present application, Applicant has amended Claims 51 and 81. Applicant also expressly reserves the right to further prosecute the original versions of Claims 51-55 and 81 through continuation practice.

Claims 51-55

Kress discloses a medical basin having a peripheral wall 10. The peripheral wall has two end walls 14, each end wall 14 having an inwardly-directed flange 24. Figure 1 of Kress appears to disclose that the flanges are located on opposite end walls, with the center of each flange portion 24 located at the center of the respective wall. Kress fails to disclose that the centers of the flanges are offset from the center of the respective end walls 14.

In contrast, Claim 51 now recites, a "medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an

upper edge and a lower edge, an upper periphery defined by the upper edge of the peripheral wall, a first contoured recess formed on a first side of the peripheral wall, the center of the first contoured recess offset from the center of the first side, the first contoured recess configured to receive a first portion of the human extremity on a first side of a joint in the extremity, and a second contoured recess formed opposite the first contoured recess on a second side of the peripheral wall of the basin and configured to receive a second portion of the human extremity on a second side of the joint.”

For example, the non-limiting embodiment of Figure 2a of the present Application includes flanges 15, 16, the centers of which are offset from the centers of the respective side walls.

This distinction is important because during some surgical procedures, such as a knee replacement surgery, the patient is laid on a standard surgical table, which is narrower than a standard twin-sized bed; about two-feet wide. As such, the patient’s legs are positioned relatively close together. Thus, only about one-foot on each side of the centerline of the surgical bed is available for the patient’s leg and any surgical instruments.

With the contoured recesses offset from the center of the associated side walls, the narrow part of the basin can be positioned between the patient’s legs, leaving the wider part of the basin disposed on the opposite side of the patient’s leg. In this orientation, due to the offset orientation of the flanges, the walls of the basin are further spaced from the patient’s leg, thereby providing the surgeon with additional space to manipulate the required instruments. Additionally, the basin can be used for procedures on the patient’s right or left legs.

The basin of Kress does not include such offset flanges and thus does not provide such an advantage. Thus, Applicant submits that Claim 51 clearly and non-obviously defines over the Kress reference.

Additionally, Applicant submits that Claims 52-55 also define over the cited reference, not only because they depend from Claim 51, but also on their own merit. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of Claims 52-55 and pass these claims to allowance.

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With regard to the rejection of Claim 81, Applicant would like to point out that the only recessed portions disclosed by Kress are disposed on *opposite* side walls. In particular, Kress teaches providing recesses on the end walls 14, but not on the side walls 16.

In contrast, Claim 81 now recites, a “medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge, an upper periphery defined by the upper edge of the peripheral wall, a first contoured recess formed on the upper periphery of a first side of the peripheral wall of the basin and configured to receive a first portion of the human extremity, and a second contoured recess formed on the upper periphery of the basin, the second contoured recess located on a second side of the peripheral wall adjacent the first side comprising the first contoured recess, the second contoured recess configured to receive a second portion of the human extremity.” A non-limiting embodiment of such a medical basin is illustrated in Figure 5 of the present application.

Kress does not disclose a medical basin having contours on adjacent sides of a peripheral wall. Accordingly, for at least this reason, Claim 81 clearly and nonobviously defines over the Kress reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 81 and pass this claim to allowance.

Holloway Does Not Disclose the Medical Basin Recited By Claims 76, 77, 79, and 80

Claims 76, 77, 79, and 80 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Holloway *et al.* (U.S. Patent No. 5,381,562) (“Holloway”). Applicant respectfully traverses the present rejections. However, to expedite the prosecution of the present application, Applicant has amended Claims 76 and 77. Applicant also expressly reserves the right to further prosecute the original versions of Claims 76-80 through continuation practice.

Holloway discloses a medical basin having a base 114 and a peripheral wall 112. The peripheral wall has an upper periphery 132. The upper periphery has four segments: two seats 136, 138, and two thumbholds 162, 163. The seats 136, 138 are disposed across the basin from each other, as seen in Figure 7, and the thumbholds 162, 163 are similarly disposed. The

thumbholds 162, 163 are disclosed as being a part of a hand gripping means. Holloway column 8, lines 10-30 and column 11, lines 29-34.

As described, the thumbholds are a component of a means for gripping the basin, and are not sized to receive a surface of a human limb. Thus, the thumbholds are merely a flat location for gripping the basin.

In contrast, amended Claim 76 recites, a “medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising: a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge; an upper periphery defined by the upper edge of the peripheral wall; a first curved recess formed on the upper periphery and configured to support a surface of a human limb; a second curved recess formed on the upper periphery of the basin and configured to support a surface of a human limb; and a third curved recess formed on the upper periphery of the basin and configured to support a surface of a human limb.”

The thumbholds of Holloway are simple flat recesses and have no curvature for forming a seal about a human limb. Therefore, for at least this reason, Holloway does not disclose or suggest each and every element of amended Claim 76. Accordingly, Claim 76 clearly and nonobviously defines over the cited reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 76 and pass this claim to allowance.

Additionally, Applicant submits that Claims 77, 79, and 80 define over the prior art, not only because they depend from Claim 76, but also on their own merit. Applicant respectfully requests the Examiner withdraw the rejection of Claims 77, 79, and 80 and pass these claims to allowance.

Meinecke Does Not Disclose the Medical Basin Recited By Claims 63-65, 67-70, 75, 81, 89, and 90

Claims 63-65, 67-70, 75, 81, 89, and 90 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Meinecke (U.S. Patent No. 1,061,769) (“Meinecke”). Applicant respectfully traverses the present rejections.

Meinecke discloses a medical basin having a base **a**, an elevated front wall **a1**, and an elevated rear wall **a2** defining a cavity. As shown in Meinecke’s Figure 2, the surgical basin has

a generally kidney shape. Correspondingly, the front wall **a1** has the shape of the concave side of a kidney.

In contrast, Claim 63 recites, “A medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall and the base defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure and a C-shaped contact region defined by a portion of the peripheral wall and having a generally concave shape recessed inwardly toward the cavity.”

Unlike Meinecke, Claim 63 recites, among other recitations, “a C-shaped contact region defined by a portion of the peripheral wall.” This is different from a contact region having the shape of the concave side of a kidney, as evinced by paragraph **[0162]** of the specification.

As explained in paragraph **[0164]** of the present application, a C-shaped basin is one in which “[t]he outer surface 42b further comprises two end regions 48c, each of the end regions disposed on either side of [an] axis 47.” As shown in Figure 6 of the present specification, the C-shaped basin has two ends of a surrounding region 48b which extend around an axis 47 spaced from the contact surface 48a. This is unlike a kidney-shaped basin, such as that illustrated in Meinecke’s Figure 2, where the ends of the basin do not extend away from a contact region to surround an axis.

Moreover, the Examiner, when rejecting Claim 90, states that, “the base is kidney-shaped, as shown in [F]igure 2.” Applicant agrees and submits that Figure 2 illustrates a kidney-shaped basin, without a C-shaped contact region.

Further, in rejecting Claims 65 and 75, the Examiner stated that “the base a is curved in the manner of a horseshoe to define a U-shaped basin.” Applicant respectfully disagrees with this characterization, particularly, as the Examiner stated in rejecting Claim 90 that, “the base is kidney-shaped, as shown in [F]igure 2.” Applicant submits that examination of Meinecke Figure 2 supports characterization of the medical basin of Meinecke as kidney-shaped, and not horseshoe-shaped. Moreover, the present application distinguishes among a kidney-shaped basin, a C-shaped basin, and a horseshoe-shaped basin.

This distinction is important because, as noted in the present specification, in “preparation for the irrigation of a shoulder wound, medical personnel place the basin 40 around the patient’s upper arm region so that the contact region 48a comes in contact with the patient’s

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upper arm and so the cavity 43 faces toward the location of the wound on the patient's shoulder region. Personnel preferably place the basin 40 on the patient's upper arm so that the contact region 48a is in contact with the upper arm surface nearest to the wound and the end regions 48c face in a direction away from the wound."

As noted above, Meinecke fails to disclose a C-shaped basin. Thus, Claim 63 clearly and nonobviously define over the Meinecke reference.

Additionally, Applicant submits that Claims 64, 65, 67-70, and 75 define over the prior art, not only because they depend from Claim 63, but also on their own merit. Applicant respectfully requests the Examiner withdraw the rejection of Claims 64, 65, 67-70, and 75 and pass these claims to allowance.

With regard to the rejection of Claim 81, Applicant would like to point out that Meinecke discloses a medical basin having a base **a**, a front wall **a1**, and a rear wall **a2** elevated above the height of the front wall defining a cavity. As shown in Meinecke's Figure 2, the surgical basin has a generally kidney shape. Meinecke, however, fails to disclose first and second curved recess disposed on adjacent walls.

In contrast, amended Claim 81 recites, a "medical basin for collecting fluid during irrigation of a wound on a human extremity, the basin being sterilized and comprising: a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the peripheral wall having an upper edge and a lower edge; an upper periphery defined by the upper edge of the peripheral wall; a first curved recess formed on the upper periphery of a first side of the peripheral wall of the basin and configured to receive a first portion of the human extremity; and a second curved recess formed on the upper periphery of the basin, the second curved recess located on a second side of the peripheral wall adjacent the first side comprising the first curved recess, the second curved recess configured to receive a second portion of the human extremity."

As noted above, Meinecke does not disclose a first curved recess and a second curved recess disposed on adjacent sides of a basin. Therefore, for at least this reason, Meinecke does not disclose or suggest each and every element of Claim 81. Accordingly, Claim 81 clearly and nonobviously defines over the Meinecke reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 81 and pass this claim to allowance.

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Additionally, Claim 89 defines over the prior art, not only because it depends from Claim 81, but also on its own merit. Applicant respectfully requests the Examiner withdraw the rejection of Claim 89 and pass this claim to allowance.

With respect to the rejection of Claim 90 Applicant would like to point out that Meinecke discloses a medical basing having a base and a peripheral wall. The base has two same-sized ends. The peripheral wall has a rim at its top. The rim is the same thickness around the entire top of the peripheral wall.

In contrast, amended Claim 90 recites “[a] medical basin for collecting fluid during irrigation of a wound on a portion of human anatomy, the basin being sterilized and comprising a base and a peripheral wall, the peripheral wall defining an inner surface defining a cavity, the cavity configured to receive irrigation fluid during an irrigation procedure, the base having a generally kidney shape with a first end and a second end, the first end smaller than the second end, the peripheral wall having an outer edge, an inner edge formed on the peripheral wall, the inner edge recessed downwardly relative to the outer edge opposite the inner edge so that the inner edge is disposed lower than the outer edge, and a contact region defined by the inner edge and the outer edge of the peripheral wall, the contact region comprising an outwardly extending flange, wherein the flange extends further near the second end than the first end, and configured to receive the portion of human anatomy.”

A non-limiting embodiment of the medical basin recited in Claim 90 is illustrated in Figures 8 and 9 of the present Application. The kidney-shaped basin of Meinecke does not include such features. Further, nothing in Meinecke teaches or suggests such features.

Thus, for at least this reason, Meinecke does not disclose or suggest each and every element of Claim 90. Accordingly, Claim 90 clearly and nonobviously defines over the Meinecke reference. Applicant respectfully requests the Examiner withdraw the rejection of Claim 90 and pass this claim to allowance.

Claim 66 Is Not Obvious In View of Meinecke

Claim 66 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Meinecke. Applicant respectfully traverses the present rejection.

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However, as noted above, Applicant submits that Claim 63 defines over the cited art. Applicant submits that Claim 66 also defines over the prior art, not only because it depends from Claim 63, but also on its own merit.

The Applied Combination of Holloway/Kress Does Not Make Obvious the Invention Recited By Claim 78

Claims 78 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Holloway in view of Kress. Applicant respectfully traverses the present rejection.

However, as noted above, Applicant submits that Claim 76 defines over the cited art. Applicant submits that Claim 78 also defines over the prior art, not only because it depends from Claim 76, but also on its own merit.

New Claims 124-127 Are In Condition For Examination

New Claims 124-127 are fully supported by the specification as originally filed. Thus, no new matter has been introduced. Additionally, Applicant submits that Claims 124-127 define over the cited references, not only because they depend from one of Claims 63 or 76, but also on their own merit.

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SUMMARY

For the reasons described above, Applicant respectfully request the Examiner withdraw the rejection of the claims and pass Claims 51-55, 63-70, 75-81, 89, 90, and 124-127 to allowance.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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